

### **REMARKS/ARGUMENTS**

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe and claim the subject matter, which Applicants regard as the invention.

Claims 1, 3, 5–22, 24–29, and 31 remain in this application. Claims 2, 4, 23, and 30 have been canceled. The Examiner has acknowledged that claims 1, 7–22, and 24–28 are directed to allowable subject matter.

Claims 3, 5, 6/3, 29, and 31/29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pecen *et al.* (U.S. 6,603,825) in view of Shi *et al.* (U.S. 6,507,740). For the following reasons, the rejection is respectfully traversed.

Claim 3, as amended, recites, *inter alia*,:

a gain control threshold setting means for automatically setting a threshold of an electric field intensity level used as a gain control threshold based on a transmission data speed of the received signal, wherein said threshold setting is varied depending on said transmission data speed; and

a first controlling means for causing the gain controlling means to start the gain control operation when the electric field intensity detected by the electric field intensity detecting means reaches the threshold of the electric field intensity level set by the gain threshold setting means.

As previously argued, the *gain control* operation is started when the *threshold* is reached. The cited references do not teach or suggest such a gain control threshold. The Examiner cites Shi as teaching the variable set threshold of the claims. However, it is clear from the Shi reference that the Shi device uses a “dynamic handoff threshold” (col. 3, lines

59–60), which is used to determine when the communication is handed off to a neighboring cell (col. 3, lines 16–65; see also Fig. 7). There is no suggestion of using a dynamic threshold for starting a *gain control operation*, as recited in the claims.

In response to these arguments provided in the previous response, the Examiner argues in the current Office action that the “feature of a ‘gain control threshold’ is not recited in the claims” (see page 2 of the Office action). The claims have been amended to specifically recites such a feature.

Furthermore, the claim specifically recites that the “first controlling means” causes the “gain controlling means to start the gain control operation when the electric field intensity detected by the electric field intensity detecting means reaches the threshold of the electric field intensity level set by the gain control threshold setting means”. By its clear language, which the Examiner appears to ignore, the claim requires that the gain controlling means starts the gain control operation when the threshold is reached. This is not reading any limitations into the claim, as argued by the Examiner, it is instead reciting the plain meaning of the claim language. In contrast, the prior art does not teach any such feature.

The Examiner argues that the prior art (Shi) teaches a “threshold setting means for automatically setting a threshold of an electric field intensity level based on the transmission condition of the received signal, wherein the threshold level is varied depending on the transmission condition” (see page 2 of the Office action). But even if true, this argument ignores the claim language that specifies that it is the gain control operation which starts when the threshold is reached. The Examiner admits that Pecan does not teach the threshold setting means of the invention, and it is clear that Pecan does not teach starting a gain control operation as specified in the claim. Furthermore, Shi makes clear that it’s threshold is for determining when the communication is handed off to a neighboring cell (col. 3, lines 16–65;

see also Fig. 7). There is no suggestion in any of the references of using a dynamic threshold for starting a *gain control operation*. Hence, claim 3 is patentable over the reference.

Claim 29 recites “a gain control threshold setting step of setting a threshold of an electric intensity level to start a gain control operation of the gain controlling means in response to a transmission data speed of the received signal”, and thus claim 29 is patentable over the references. The remaining rejected claims are also patentable over the references at least by their dependency on one of claims 3 or 29.

Furthermore, the Examiner has failed to provide the proper motivation for making the combination. Thus, the Examiner has failed to support a *prima facie* case of obviousness, and thus the rejection should be withdrawn.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 32930.

Respectfully submitted,

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